

07/28/05

DAE & JMW

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/312,479
Filing Date	May 17, 1999
First Named Inventor	Robert J. Hennick et al.
Group Art Unit	2878
Examiner Name	Luu, Thanh X.
Attorney Docket Number	283_237.10CPA

Total Number of Pages in This Submission 39

### ENCLOSURES (check all that apply)

☒ Fee Transmittal Form

☒ Fee Attached

☐ Amendment / Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Response to Missing Parts/Incomplete Application

☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

☐ Drawing(s)

☐ Licensing-related Papers

☒ Petition

☐ Petition to Convert to a Provisional Application

☐ Power of Attorney, Revocation Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s)

☐ After Allowance Communication to Technology Center (TC)

☐ Appeal Communication to Board of Appeals and Interferences

☒ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please identify below):

Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) (2 pgs.), Statement Establishing Unintentional Delay (2 pgs.) Response to a Communication Re: Appeal (1 pg.), Return Mailroom Postcard, our check in the amount of \$1500.00 and Certificate of Express Mailing.

Remarks

The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name

Wall Marjama & Bilinski LLP

Dana F. Bigelow

Reg. No. 26,441

Signature

Date

July 27, 2005

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service using the Express Mail Post Office To Addressee service per 37 CFR 1.10 under Express Mail No. EV402384278US addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 27, 2005.

Typed or printed name

Christine M. Holmes

Signature

Date

July 27, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act. 2005 (H.R. 4818).

**FREE TRANSMITTAL**  
**For FY 2005****Complete if Known**

Application Number	09/312,479
Filing Date	May 17, 1999
First Named Inventor	Robert J. Hennick et al.
Examiner Name	Luu, Thanh X.
Art Unit	2878
Attorney Docket No.	283_237.10CPA

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT \$1500.00

Express Mail Label EV402384278US

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 50-0289 Deposit Account Name: Wall Mariama & Bilinski LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments ☒ Credit any overpayments  
of fee(s) under 37 CFR 1.16 and 1.17**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.****FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>		
- 20 or HP =	x	=
HP= highest paid number of total claims paid for, if greater than 20		
<b>Indep. Claims</b>		
- 3 or HP =	x	=
HP= highest number of independent claims paid for, if greater than 3		

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a) (1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEES**

Non-English Specification, \$130 fee (no small entity discount)	Fees Paid (\$)
Other: Petition Fee	1500.00

**SUBMITTED BY**

Signature	Registration No. 26,441 (Attorney/Agent)	Telephone 315-425-9000
Name (Print/Type)	Dana F. Bigelow	Date July 27, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

283\_237.10CPA

First named inventor: Robert J. Hennick et al.

Application No.: 09/312,479

Art Unit: 2878

Filed: May 17, 1999

Examiner: Luu, Thanh X.

Title: OPTICAL AND IMAGE SENSOR SUBASSEMBLY ALIGNMENT AND MOUNTING METHOD

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1500.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of Supplemental Appeal Brief (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

07/29/2005 MAHNE1 00000071 09312479

01 FC:1453

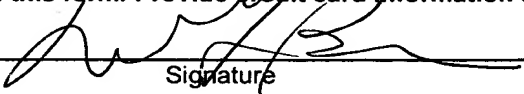
1500.00 DP

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

 _____ Signature	_____ July 27, 2005 Date
_____ Dana F. Bigelow Typed or printed name	_____ 26,441 Registration Number, if applicable
_____ 101 South Salina Street, 4th Floor, Syracuse, NY 13202 Address	_____ 315-425-9000 Telephone Number

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

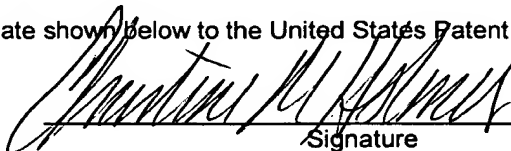
☒ Other: Supplemental Appeal Brief

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to **Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450** on July 27, 2005, under "EXPRESS MAIL" mailing label number EV402384278US.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

\_\_\_\_\_  
July 27, 2005  
Date

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Christine M. Holmes  
Typed or printed name of person signing certificate



Practitioner's Docket No.: 283\_237.10CPA

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: Robert J. Hennick et al.

Ser. No.: 09/312,479

Group Art Unit: 2878

Filed: May 17, 1999

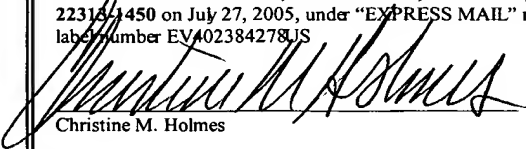
Examiner: Luu, Thanh X.

Confirmation No.: 2665

For: **OPTICAL AND IMAGE SENSOR SUBASSEMBLY ALIGNMENT AND MOUNTING METHOD**

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to **Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450** on July 27, 2005, under "EXPRESS MAIL" mailing label number EV402384278JS

  
Christine M. Holmes

**STATEMENT ESTABLISHING UNINTENTIONAL DELAY**

Dear Sirs:

The following Statements are made in support of the "Statement" in Paragraph 4 of the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

1. A Notification of Non-Compliance with 37 CFR 1.192(c) was mailed on June 4, 2003 requiring that three copies of the Brief be submitted. A good faith reply was mailed within the 30 days permitted.
2. A Notification of Non-Compliance with 37 CFR 1.192(c) mailed on August 26, 2003 required correction of appropriate claims involved. A good faith reply was filed within the 30 days permitted.
3. A Notification of Non-Compliance with 37 CFR 1.192(c) mailed on November 18, 2003 again required a corrected version of the claims. A good faith reply was filed within the 30 days permitted.
4. A Notification of Non-Compliance with 37 CFR 1.192(c) mailed on March 19, 2004 required a corrected copy of the appealed claims as an appendix. A good faith reply was filed within the 30 days permitted.
5. A Notification of Non-Compliance with 37 CFR 1.192(c) mailed November 24, 2004 required a correct copy of the appealed claims as an appendix. A good faith reply was filed within the 30 days permitted.

6. A Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed February 11, 2005 required that a revision and a complete new brief be filed. The appellants filed a good faith response within the 30 days permitted.

7. A Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed June 1, 2005 again required that a revision and a complete new brief be filed. The appellants filed a good faith response within the 30 days permitted.

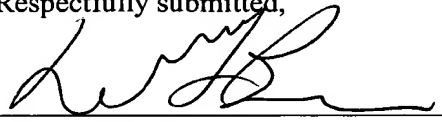
8. A Communication Re: Appeal mailed July 12, 2005 indicated that the appeal is being dismissed and the application is being abandoned.

In response, the appellants have timely filed a Petition to Revive the application and have revised the Appeal Brief and have submitted a Supplemental Appeal Brief herewith.

Respectfully submitted,

Dated: July 27, 2005

By:



Dana F. Bigelow

Reg. No. 26,441

DFB/cmh

Telephone: (315) 425-9000

Customer No.: 20874